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COMMERCIAL AREA REVITALIZATION
DISTRICT PLANS.

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CARD PLANS
Rules and Regulations

Commercial Area Revitalization District Plans

Commonwealth of Massachusetts
EDWARD J. KING · GOVERNOR

Executive Office of Communities and Development
BYRON J. MATTHEWS · SECRETARY

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COMMERCIAL AREA REVITALIZATION DISTRICT (CARD) PLANS

I. General Information

(1) Authority. Section 12 of Chapter 40D of the General Laws as amended (by Sections 1 and 10 of St. 1978, Chapter 495), authorizes the use of industrial revenue financing for "commercial enterprises" provided that any such enterprise is located in a district for which a Commercial Area Revitalization Plan has been approved by the Secretary for Communities and Development. (Note: For the purposes of these rules and regulations, the plans in question will be referred to as Commercial Area Revitalization District Plans or CARDs.) A similar amendment to Chapter 23B makes approval of such a plan by the Secretary, a precondition for the use of Urban Job Incentive Program tax credits by commercial facilities. (St. 1978, Chapter 499, S2, 3, 5)*

(2) Preapplication Meeting. A preapplication meeting shall be held with ECCD staff administering the CARD Plan reviews. This meeting will be at least two working weeks before publication of the public hearing notice of the Plan. At this meeting the applicant should submit a map showing the proposed CARD boundaries and existing land uses within the CARD. The purpose of this meeting is to surface and, if possible, resolve any problems with the eligibility of the proposed CARD and the appropriateness of its boundaries, prior to the public hearing and local government body vote on the CARD plan.

(3) Criteria for Plan Approval. In order for the Secretary to approve the CARD Plan, the following findings must be made as defined in the above mentioned statutes:

(a) That the plan boundaries describe a predominantly commercial geographic area;

(b) That the plan's purpose shall be to prevent or avert and reverse the decay of the area covered by the plan;

(c) That the plan will serve to avoid or correct or avert the deterioration of an older commercial center resulting from the movement of commercial enterprises to previously noncommercial areas;

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* To be eligible for the 40D revenue bond financing, the commercial facility being financed must be located in any city or a town with a population exceeding 35,000 according to the last census. To qualify for UJIP tax credit, the facility must be in a city or town that contains one or more areas of substantial poverty. The Massachusetts Industrial Finance Authority (MIFA) administers the revenue bond program. The Department of Commerce and Development certifies firms as eligible for the UJIP credits.

(d) That the plan describes the area and sets forth the development, or redevelopment, including public improvements, proposed to carry out the purposes of the plan;
(e) That the local governing body (defined as "in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the board of selectmen") of the municipality has approved the plan.
In addition, to receive approval of the Secretary of Communities and Development, a CARD Plan must:

1. Make adequate provision for citizen participation and private sector involvement in the execution of the plan;
2. Take into account any operative municipal master plan and any operative urban renewal plan, economic development plan, or other officially adopted local plan covering all or part of the CARD Area; and
3. Identify a locally designated implementing agency with the power and capability to oversee implementation of the CARD plan.

(4) Hearing Requirement. Prior to approval of the CARD plan, the local governing body shall hold a public hearing, preceded by at least ten days public notice. The notice shall be published in a local newspaper of general circulation. This notice should:
(a) identify the general geographic location of the proposed CARD within the community, and
(b) list the incentives available within approved CARD areas.
(Note: At the present time these incentives are the tax exempt financing and UJIP tax credits. However, in the future the legislature may link other incentives to CARD plan approval.)
(See Exhibit E for model wording of a hearing notice.)

(5) Approval Letter. Upon determination by the Secretary that the proposed CARD plan satisfies all of the above criteria, he shall issue a letter of approval. When the CARD includes parcels in non-commercial use or delineates a commercial area outside of the given locality's downtown proper, the Secretary's letter of approval may contain conditions on the use of state incentives within the CARD. These conditions will be to help insure that such incentives will be used only for uses consistent with the purpose of these regulations and their underlying statutes.

(6) Plan Approval With Pre-existing Urban Renewal Plan or Other Pre-existing Plans. Where an existing and operative state approved urban renewal plan exists for the area to be designated as a CARD, it may be submitted in lieu of the plan documentation required by these regulations (as outlined in II. (3) to II. (10). The Secretary may also, at his discretion, approve any other pre-existing officially approved plan for a designated area of a city or town that the local governing body may choose to approve as the CARD plan for the area. All submissions incorporating pre-existing plans remain subject to the hearing requirement as detailed in I. (4) supra. They must be also accompanied by:

(a) a resolution from the local governing body approving the pre-existing plan as the CARD plan,
(b) the legal documentation specified in II. (11) (12) (13) and (14), supra,
(c) a completed copy of the Commercial Plan Status Report Form reproduced as Appendix C.

Approval of the Card Plan by the Secretary of Communities and Development will still be contingent on his finding that the Plan satisfies the criteria enumerated in I. (3).

(7) CARD Plan Changes. The municipality shall submit all major plan changes to the Secretary of Communities and Development for approval. A major plan change is defined as a change in either the CARD's boundaries or the designated local implementing agency. Application to the Secretary for formal approval of the plan change shall include:

(a) A detailed description of the plan change and its effect on the overall CARD strategy, including a revised description, if necessary and,
(b) Documentation of local approvals of the plan change including:
   1. public hearing with a ten-day notice,
   2. resolution of local governing body,
   3. certificate of recording officer and,
   4. opinion of local legal counsel.

II. Required Documentation

(1) Copies and Title Page. A local governing body desiring to have a CARD plan approved by the Secretary of Communities and Development, shall submit four copies of the plan to the Office of Local Development in the Department of Community Affairs. The applicant shall clearly identify on the cover of each copy:

(a) the name of the locality,
(b) the name of the designated implementing agency,
(c) the name of the CARD, and
(d) the date of the application.

(2) Summary of Submission Requirements. The CARD Plan shall include the following documentation:

TABLE 1

Index Number	Item
(1)	Table of Contents
(2)	CARD Description
(3)	Rationale for District Boundaries
(4)	Statement of Plan Objectives
(5)	Plan Strategy
(6)	Consistency with Other Local Plans
(7)	Provisions for Citizen Participation
(8)	Description of Designated Implementation Agency
(9)	Copy of Notice of Public Hearing with Affidavit that Hearing Held
(10)	Resolution of Local Governing Body Approving CARD Plan
(11)	Certificate of Recording Officer to Accompany Resolution
(12)	Opinion of Legal Counsel to Accompany Resolution

Where a pre-existing Urban Renewal Plan or other pre-existing planning document is being adopted as the CARD Plan, in accordance with the procedures outlined in I. (4) supra, the submission should consist of:

- a title page, as described in II. (1);
- a completed Commercial Plan Status Report Form (Exhibit C);
- a copy of the original planning document;
- legal documentation that the pre-existing planning document has been officially adopted as the CARD Plan in accordance with these rules and regulations (II. (10) through II. (13)).

(3) CARD Description. The submission shall include the following:

TABLE 2

Elements	Preparation
Boundaries of CARD	An accurate description in a form which is capable of only one interpretation.
	An 8 1/2 by 11 inch map which clearly establishes perimeter of the District.
Land Use	A map of existing land uses (may be same as boundary map).
	Documentation showing that predominant land use is commercial; total acreage.
Zoning	Maps and text as appropriate to document existing zoning status of the CARD.
General Physical Conditions	Brief description of physical conditions including age of structures, and extent of blight and deterioration.
Marketing Conditions	A description of occupances and vacancies in commercial space, and the character and stability of commercial mix.

(4) Rationale for District Boundaries. The submission shall include a brief statement of the reasons for delineating the boundaries of the CARD. When the CARD is being proposed for an existing commercial area other than the given locality's central business district, the rationale shall make clear that the proposed commercial redevelopment will complement rather than conflict with preserving or revitalizing the downtown. The means for ensuring this desired compatibility shall be detailed in the Plan Strategy (See Section (7) (f)).

(5) Boundaries Within Which Incentives Will Be Available. For reasons such as the programming of public improvements, the CARD boundaries may enclose some parcels in residential, industrial, or other noncommercial use. In such cases, the municipality may not wish to encourage the conversion of these parcels to commercial use. Where this is so, the CARD Plan should clearly delineate the areas within the overall Commercial Area Revitalization District where commercial enterprises will be allowed to utilize the incentives available through M. G. L. Chapters 40D and 23B, as amended, and other commercial incentives that may become available in the future.

(6) Statement of Plan Objectives. The submission shall detail all of the CARD Plan's objectives including, but not necessarily limited to:

(a) the type of commercial development or redevelopment envisaged,
(b) the prevention or the arrest and reversal of decay, and
(c) the re-enforcement of an existing older commercial center and discouragement of commercial enterprises from moving into previously non-commercial areas.

(7) Plan Strategy. The submission shall describe the actions proposed for accomplishing its objectives, including as applicable:

(a) Public Improvements and Facilities.
Describe in general terms any major public improvements envisaged, including major changes in traffic circulation and provision of off-street parking, utilities, streetscaping, pedestrian malls, parks and plazas. Describe any major public facilities to be provided.

(b) Land Use and Design Controls. Indicate whether more restrictive land use and design controls beyond those already in effect will be required to carry out the Plan, and, if so, what type of controls including Signage and Historic District or Historic Register designation, if any. Also describe procedures for design review that are in effect or may be established.

(c) General Character of Development/Redevelopment. Outline of general character of development or redevelopment envisaged including:

1. in order of magnitude, estimates of the relative percentages of the area to be upgraded through new construction and the rehabilitation of existing structures;
2. the extent to which the development/redevelopment will emphasize the upgrading of existing businesses, the expansion of existing businesses, the attraction of new types of commercial enterprises (and, if so, what type);
3. whether any public land acquisition, clearance, and/or disposition is anticipated, and, if so, how extensive such activities will be, and for what purposes.

(d) Federal/State Financial Incentives. Describe which state and federal financial incentives, if any, may be utilized to accomplish the plan, including IDFA revenue bonds, Urban Job Incentive Program (UJIP) tax credits, Chapter 121A tax agreements, Chapter 121B Urban Renewal Grants, and UDAG funds.

(e) Local Financial Commitment. Indicate present and projected local budgetary commitment to the CARD, including issuance of general obligation bonds and allocations of entitlement or small cities CDBG funds.

(f) Complementarity With Downtown Development. If the CARD consists, in whole or in part, of areas outside the locality's central business district, summarize those features of the Plan Strategy that will ensure that revitalization of the proposed CARD will not be competitive with the preservation and/or revitalization of the downtown proper.

(8) Finding of Conformance With Other Local Plans. The submission shall identify any pre-existing plans, including local Master Plans and Urban Renewal Plans, that apply to all or part of the CARD and that have been approved by the local governing body or a specific municipal agency. In each case as appropriate, either

(a) affirm the consistency of the pre-existing plan with the CARD plan, or

(b) describe the nature and extent of any inconsistency.

If relevant, a copy of each pre-existing plan that is identified must be submitted along with the CARD Plan.

(9) Citizen Participation Provision. The submission shall describe mechanisms already in place or envisaged for securing citizen participation and the involvement of the local business community in the implementation of the CARD Plan.

(10) Local Implementing Agency. The submission shall identify which local agency has been designated to oversee implementation of the CARD Plan and describe the powers and experience of the agency which qualify it to perform this function.

(11) Evidence of Public Hearing. The submission shall include evidence that a public hearing was held on the CARD Plan and that the hearing was preceded by ten days notice. Documentation of the hearing shall include:

(a) A copy of the notice of public hearing as published in a local newspaper of general circulation including the date of publication. (See I. (4) supra and Exhibit E, for model notice.

(b) An affidavit that the hearing took place or a copy of excerpts from a transcript of the hearing.

(12) Resolution of Local Governing Body. Exhibit A provides model language for a resolution by the local governing body approving the CARD Plan. Where a pre-existing urban renewal plan or other pre-existing planning document is being adopted as the CARD Plan, the resolution shall include a finding by the local governing body that the given planning document satisfies the statutory CARD Plan requirements.

(13) Certificate of Recording Officer. Exhibit B provides model language for a certificate by a recording officer attesting that the resolution of the governing body as submitted to EOCD is a valid one.

(14) Opinion of Legal Counsel. The submission shall include an opinion by the manicipality's legal counsel that the CARD Plan was prepared and approved in accordance with applicable state and local statutes and regulations.

III. Expiration and Renewal

Approvals of CARD Plans under these Rules and Regulations will remain valid for five years from the date of their approval by the Secretaries for Communities and Development. Applications for renewal should include:

(a) a completed CARD Plan Renewal Form (Exhibit D);
(b) a copy of a resolution by Local Governing Body approving the Card Plan renewal;
(c) certificate of Recording Officer to accompany resolution;
(d) opinion of legal counsel.

Renewals must be approved by the Secretary for Communities and Development and will remain in effect for five years, after which the Plan must be renewed again.

IV. Severability

If any provision of these regulations or the application thereof is held to be invalid, such invalidity shall not affect other provisions or the application of any other part of these regulations not specifically held invalid, and to this end the provisions of these regulations and various applications thereof are declared to be severable.

V. Exhibits

Exhibit A

MODEL RESOLUTION FOR LOCAL GOVERNING
BODY APPROVING A COMMERCIAL
AREA REVITALIZATION DISTRICT (CARD) PLAN

WHEREAS, in accordance with Chapters 40D and 23B, Massachusetts General Laws, The Commonwealth of Massachusetts acting by and through the Secretary of Communities and Development may approve Commercial Area Revitalization Districts Plans (herein referred to as CARD Plans); and

WHEREAS, such approval is a precondition for the use of various state financial incentives for commercial development that would be in the public interest of the citizens of (town/city); and

WHEREAS, the (development/redevelopment) of the (Title of District) CARD, the boundaries of which are described on _____(insert page reference to the CARD Plan), would forward the community development objectives of the town (city) and would result in physical development (redevelopment) of said District and the creation of employment opportunities of a character consistent with that contemplated by the above cited statutes;

(Note: When a pre-existing document is being adopted as the CARD Plan, also include the following.

WHEREAS, the (title of preexisting document) already has been prepared to guide the redevelopment of the commercial area, is still operational, and satisfies the statutory CARD Plan requirements.)

NOW, THEREFORE BE IT RESOLVED BY THE (LOCAL GOVERNING BODY)

1. That the (title of district) (herein referred to as the CARD) Commercial Area Revitalization District described above is a predominantly commercial geographic area;

2. That implementation of the proposed CARD Plan will serve (to prevent) or (to avert and reverse) the decay of the area covered by the plan and will help deter the movement of commercial enterprises into previously noncommercial areas; and

3. That the (title of district) CARD Plan is hereby approved and that said Plan shall be submitted to the Secretary of Communities and Development for approval.

(Note: When a pre-existing planning document is being adopted as the CARD Plan, substitute the following for Item No. 3, above:

3. That the (title of pre-existing document) and Commercial Plan Status Report is hereby approved as the (title of district) CARD Plan and that said Plan shall be submitted to the Secretary of Communities and Development for approval.)

Exhibit B

MODEL CERTIFICATE OF RECORDING OFFICER

(To Accompany Resolution of Municipal Officers)

The undersigned hereby certifies, as follows:

1. That he is the duly qualified and acting (Town) (City) Clerk of the (Town) (City) of_____, herein called the "municipality" and the keeper of the recorders of the municipality, including the journal of proceedings of the (legal voters) (City Council) (Board of Selectmen), herein called the "Governing Body":

2. That the attached resolution is a true and correct copy of the resolution as finally adopted at a meeting of the Governing held on the _____day of_____, 19__, and duly record in his office;

3. That said meeting was duly convened and held in all respects in accordance with law; that to the extent required by law due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting, and a legally sufficient number of members of the Governing Body voted in the proper manner and for the adoption of said resolution; and that all other requirements and proceedings under law incident to the proper adoption or passage of said resolution, have been fulfilled, carried out and otherwise observed;

4. That if an impression of the seal has been affixed below, it constitutes the official seal of the Municipality and this certificate is hereby executed under such official seal. If no seal has been affixed below, the Municipality does not have and is not legally required to have an official seal;

5. That the undersigned is duly authorized to execute this certificate.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this _____ day of_____, 19__.

(Seal)

_____
(signature of Recording Officer)

ATTEST

_____
(signature of Attesting Officer)

_____
(Title of Attesting Officer)

Exhibit C

COMMERCIAL PLAN STATUS REPORT FORM

(Note: This form is to be completed and included with the submission when a pre-existing planning document is being adopted as the CARD Plan. If more space is required for an adequate response than is provided on this form, simply use it as an outline for preparing your submission.)

1. Municipality_____

2. Name of Commercial Area Revitalization

   District (CARD)_____

3. Date of Application_____

4. Designated Implementing Agency_____

5. Title of Pre-existing Plan or other Document Being

   Submitted as the CARD Plan_____

6. Agency Preparing the Original Plan_____

7. Review and Approval of Original Plan.

   a. CITIZEN PARTICIPATION. Did citizen groups and the business community participate in preparation of the original plan? YES_____NO_____
   If yes, describe briefly._____

   _____

   _____

   _____

   b. HEARINGS. Were formal public hearings held on the original plan? YES___NO___. If yes, give date(s)_____

   _____

   _____

   c. Was the original plan approved by the local governing body? YES___NO___. If yes, give date_____
   (Attach copy of resolution)

   _____

8. Status of the Plan.

a. OVERVIEW. Briefly describe status of the plan and the extent to which it is still operational? How is its implementation progressing? Has orientation and emphasis shifted with changing market conditions?

_____

_____

_____

_____

_____

_____

_____

_____

b. AMENDMENTS. Has the plan been formally amended or elaborated since it was originally prepared? YES____NO____. If yes, describe briefly_____

_____

_____

_____

_____

c. CITIZEN PARTICIPATION. Is there ongoing citizen and business participation in the plan's implementation? YES____NO____. If yes, describe briefly_____

_____

_____

_____

d. LOCAL GOVERNMENT SUPPORT TO DATE. List major commitments to implementing the Plan to date including dollar amounts, (e.g., allocations of CDBG funds, special land use and design controls, public improvements and facilities).

e. PROJECTED SUPPORT. Detail public commitments to the area over the next few years, including federal and state incentives.

f. Describe any additional plans which affect the Commercial Area Revitalization District

_____

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9. SUPPORTIVE DOCUMENTATION. List any documents (annual reports, memos, budgets) being included with the submission that document the implementation status of plans for the commercial district.

_____

_____

_____

_____

_____

_____

10. LEGAL DOCUMENTATION. Be sure to attach copies of:

a. Resolution of local governing body approving the original, pre-existing plan.

b. Copy of a notice of public hearing Notice on Adoption of pre-existing plan as the CARD Plan (as published in a newspaper of general circulation).

c. Documentation that hearing took place as scheduled.

d. Copy of resolution by local governing body approving pre-existing plan as CARD Plan.

e Certificate of the Recording Officer attesting that the resolution of the governing body as submitted to EOCD is a valid one.

f. The opinion of the municipality's legal counsel that the CARD Plan fully accords with applicable state and local statutes and regulations.

Exhibit D

CARD RENEWAL FORM

(Note: Section III. requires that CARD plans must be renewed every five years. This form should be completed by a community or town desiring to renew a CARD Plan and submitted to the Secretary of Communities and Development for his approval.

1. Municipality_____

2. Name of Commercial Area Revitalization District (CARD)

_____

3. Date of Original Approval_____

4. Date of this Application_____

5. Designated Implementing Agency_____

6. Status of the Plan:

   a. OVERVIEW. Briefly describe status of the plan and the extent to which it is still operational? How is its implementation progressing? Has orientation and emphasis shifted with changing market conditions?

   _____

   _____

   _____

   _____

   _____

   _____

   b. AMENDMENTS. Has the plan been formally amended or elaborated since it was originally prepared? YES____NO____. If yes, describe briefly.

   _____

   _____

   _____

   _____

c. BOUNDARY CHANGES. Describe any boundary changes that are being made to the original CARD Plan.

d. CITIZEN PARTICIPATION. Is there ongoing citizen and business participation in the plan's implementation? YES____NO____. If yes, describe briefly.

e. INDUSTRIAL REVENUE BOND PROJECTS. Briefly describe all projects that have been financed through the sale of industrial revenue bonds.

f. URBAN JOB INCENTIVE PROGRAM. Briefly describe all projects that have utilized Urban Job Incentive Program tax credits.

g. LOCAL GOVERNMENTAL SUPPORT TO DATE. List major commitments to implementing the Plan to date including dollar amounts, (e.g., allocations of CDBG funds, special land use and design controls, public improvements and facilities).

h. PROJECTED SUPPORT. Detail projected public commitments to the area over the next few years, including federal and state incentives.

i. Describe any additional formal plans which affect the Commercial Area Revitalization District.

_____

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7. SUPPORTING DOCUMENTATION. List any documents (annual reports, memos, budgets) being included with the submission that document the implementation status of plans for the CARD.

_____

_____

_____

_____

_____

_____

8. LEGAL DOCUMENTATION. Be sure to attach copies of:

a. Resolution of local governing body approving the CARD plan.

b. Copy of a Notice of public hearing (as published in a newspaper of general circulation).

c. Documentation that hearing took place as scheduled.

d. Copy of resolution by local governing body approving the CARD Plan.

e. Certificate of the Recording Officer attesting that the resolution of the governing body as submitted to EOCD is a valid one.

f. The opinion of the municipality's legal counsel that the CARD Plan fully accords with applicable state and local statutes and regulations.

Exhibit E

SAMPLE NOTICE

NOTICE OF PUBLIC HEARING

The City Council will hold a public hearing at (insert time) on (insert date) in the (insert location) to discuss the plans for creation of a (title of Card District) Commercial Area Revitalization District (CARD). The suggested boundaries for the CARD are (insert description of boundaries or general location). A plan for the CARD's development will be presented at the hearing.

Section 12 of Chapter 40D of the General Laws as amended (by Sections 1 and 10 of St. 1978 Chapter 495) authorizes the use of tax-exempt industrial revenue bond financing for "commercial enterprises" provided that any such enterprise is located in a district for which a Commercial Area Revitalization Plan has been approved both by the City and by the Secretary of Communities and Development. A similar amendment to Chapter 23B makes approval of such a plan by the Secretary a precondition for the use of Urban Job Incentive Program Tax credits by commercial facilities. In the future, the State legislature may tie the availability of other incentives to CARD plan approvals.

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